

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Plaintiff,

v.

Bill Sunga Modina, d/b/a 5M Financial, and
d/b/a 6M Financial,

Defendant.

Case No.: 2:14-cv-00474-JAD-PAL

**Order Adopting Report and
Recommendation [Doc.14] and
Granting United States' Motion for
Default Judgment
[Doc. 9]**

Defendant Bill Sunga Modina is a federal tax preparer who, the United States alleges, repeatedly interfered with how various tax laws are administered and enforced. The United States sued Modina for causing an estimated \$9,6800,000 in tax loss and for undermining public confidence in the federal tax system. Modina was properly served with the complaint, but he has failed to appear in this action.¹ The clerk entered default against him on May 23, 2014.² The United States now moves for entry of a default judgment and permanent injunction against Modina. Magistrate Judge Peggy Leen recommends that I grant the motion.

After reviewing the file and the applicable law, Magistrate Judge Leen found that Modina continually “engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 and other fraudulent conduct that substantially interferes with the administration of tax laws.”³ She also found that “Modina engaged in conduct that interferes with the enforcement of the internal revenue laws.”⁴ Accordingly, she recommends that “Modina . . . be enjoined from further acting as a federal tax return preparer under 26 U.S.C. § 7407” and that “injunctive relief is appropriate to prevent

¹ Doc. 4.

² Doc. 6.

³ Doc. 14 at 2.

⁴ *Id.* at 2.

recurrence of such conduct [under] 26 U.S.C. § 7402.”⁵

Modina has never appeared or filed any objections. “[N]o review is required of a magistrate judge’s report and recommendation unless objections are filed,”⁶ and I agree with Magistrate Judge Leen’s findings and recommendations. I therefore adopt Judge Leen’s report and recommendation and grant the United States’ motion for default judgment.

Conclusion

It is HEREBY ORDERED that Magistrate Judge Leen’s Report and Recommendation [**Doc. 14**] is **ADOPTED**.

It is FURTHER ORDERED that United States Motion for Default Judgment [**Doc. 9**] is **GRANTED**.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Final Judgment is entered in favor of United States and against Bill Sunga Modina, and that Modina—and all those in active concert or participation with him—is permanently enjoined from directly or indirectly:

1. acting as a federal tax return preparer, or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity than themselves;
2. preparing or assisting in preparing or filing federal tax returns, amended returns, other related documents or forms that they know or reasonably should know will result in an understatement of tax liability or the overstatement of federal tax refunds;
3. preparing returns for customers and failing to provide identifying numbers as required by 26 U.S.C. § 6109(a)(4);
4. preparing returns for customers and failing to maintain copies of those returns, or a list of those returns by taxpayer identification number as required by 26 U.S.C. § 6107(b);
5. misrepresenting experience or education as a tax preparer;
6. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694 and 6695 or any

⁵ *Id.*

⁶ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003). *See also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

1 other penalty provision in the Internal Revenue Code; and

2 7. engaging in any conduct that substantially interferes with the proper administration and
3 enforcement of the internal revenue laws.

4 IT IS FURTHER ORDERED THAT:

5 8. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Modina is required, within 30 days of entry of
6 this injunction, to contact by United States mail and by email (if an email address is known) all
7 persons for whom he prepared a federal tax return, amended return, or any other federal tax form
8 since January 1, 2008, to inform them of the permanent injunction entered against him. He must
9 include a copy of the court's permanent injunction order, but he should not include any other
10 documents or enclosures unless agreed to by counsel for the United States or approved by the court.
11 He must also file with the court a sworn certification stating that he has complied with this
12 requirement;

13 9. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Modina shall, within 30 days of entry of this
14 injunction, produce to counsel for the United States a list that identifies by name, social security
15 number, address, e-mail address, telephone number, and tax period(s) all persons for whom he
16 prepared tax returns or claims for refund since January 1, 2008;

17 10. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Modina shall, within 3 days of entry of this
18 injunction, provide a copy of the court's order to all of the principals, officers, managers, employees,
19 and independent contractors of his tax return preparation. He must also, within 30 days, provide
20 counsel for the United States with a signed and dated acknowledgment or receipt of the court's order
21 for each person to whom he provided a copy of the court's order;

22 11. The United States may conduct discovery to monitor Modina's compliance with the terms
23 of this permanent injunction order;

24 12. And this court retains jurisdiction over Modina to enforce this permanent injunction.

25 DATED: April 23, 2015.

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27 
28 Jennifer A. Dorsey
United States District Judge